

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2021-22-C- ORDER NO. 2021-341

JUNE 3, 2021

IN RE:	Application of Aiken Electric Cooperative,)	ORDER DESIGNATING
	Incorporated for Designation as an Eligible)	AIKEN ELECTRIC
	Telecommunications Carrier Pursuant to)	COOPERATIVE, INC. AS
	Section 214(e) of the Communications Act)	AN ELIGIBLE
	of 1934)	TELECOMMUNICATIONS
)	CARRIER

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application of Aiken Electric Cooperative, Inc. ("Company") for designation as an Eligible Telecommunications Carrier ("ETC") in the State of South Carolina for certain service areas. These certain service areas comprise the eligible census block(s) that have been provisionally awarded to the Company as a winner in the Rural Digital Opportunity Fund ("RDOF") Phase I auction ("Auction 904") through the RDOF Phase I support by the Federal Communications Commission ("FCC").

The Company seeks designation as an ETC pursuant to Section 214(e)(2) of the Telecommunications Act of 1996 ("Telecommunications Act"), as amended, and Section 103-690 of the South Carolina Code of Regulations ("Regulation(s)"). The Company's receipt of RDOF Phase I support is contingent, in part, on receiving an ETC designation from the Commission by June 7, 2021.

As part of its ETC Application, the Company requests waiver of Regulation 103-690.C.(a)(1)(B), regarding submission of a two-year plan, and Regulation 103-

690.1.B.(b)(1), regarding updates to the two-year plan. The Company also requests waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation as an ETC in an area smaller than a wire center. The Company further requests expedited consideration of this matter and waiver of the formal evidentiary hearing.

Upon review of the Application and all of the supporting documents submitted by the Company, and for the reasons explained in this Order, the Commission concludes that the Application, together with the requested Regulation waivers, should be approved and that Company is granted the designation as an ETC on the terms provided in this Order. The Commission further concludes that it would serve the public interest to approve the Application and designate the Company as an ETC in the certain service area comprised of the eligible census blocks that have been provisionally awarded to the Company as a winner in Auction 904.

I. BACKGROUND

On January 30, 2020, the FCC established the RDOF plan to ensure continued and rapid deployment of broadband networks to unserved Americans.¹ RDOF will commit up to \$20.4 billion over ten years to support the availability of high-speed networks in rural areas of the United States. The FCC released the RDOF Closing Public Notice² on

¹ See *Rural Digital Opportunity Fund; Connect America Fund*, Order, 35 FCC Red 686 (2020) ("*RDOF Order*").

² See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 2021*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 20-1422 (rel. Dec. 7, 2020) ("*RDOF Closing Public Notice*").

December 7, 2020, announcing the conclusion of Phase I of Auction 904. Phase I committed up to \$16 billion over the next ten years.

The Company filed its verified Application ("Application") for designation as an ETC on January 6, 2021. As directed by the Commission, notice of the filing of the Application was published and proof of publication provided to the Commission on February 24, 2021. The South Carolina Office of Regulatory Staff ("ORS") is a statutory party in this matter. See S.C. Code Ann. § 58-4-10(B) (Supp. 2020). No comments or petitions to intervene were received in response to the notice. All interested persons have been afforded an opportunity for a hearing, as required by S.C. Code Ann. § 58-9-280(B), Section 1-23-320(a) of the South Carolina Administrative Procedures Act, and constitutional due process. Proceeding without a formal hearing in this matter would serve the public interest in administrative efficiency.

On March 15, 2021, a Stipulation entered into between the Company and the ORS was filed with the Commission ("Stipulation"). The Stipulation recommends that the Company be designated as an ETC in accordance with the terms of the Stipulation. A copy of the Stipulation is attached hereto as Order Exhibit A. The Company filed the direct testimony of Gary L. Stooksbury in support of the Application on March 4, 2021, and provided verification of said testimony on March 16, 2021. The Company was deemed a winning bidder for one (1) eligible census block in the census block groups identified in Exhibit B to the Application, which is attached as Order Exhibit B. The Commission held oral arguments on March 15, 2021, regarding the Company's request for expedited review,

requesting that the Commission waive a formal hearing and approve the Application and requested waivers. ORS did not object to the request for expedited review of the Application and requested waivers conditional upon the executed Stipulation.

For the reasons explained herein, the Commission has concluded that the Application, together with certain Regulation waivers, should be approved on expedited basis and that such designation of the Company as an ETC on the terms provided in this Order would serve the public interest. Having considered the record before it, the Commission finds that it is sufficient to make a final determination in this matter and that the interests of judicial economy are served by waiving the formal hearing and granting expedited consideration.

II. ANALYSIS

Section 214(e)(2) of the Telecommunications Act authorizes state commissions to designate common carriers that meet the applicable requirements as ETCs. 47 U.S.C.A. § 214(e)(2). Regulation 103-690 provides that the Commission will fulfill its responsibility to designate common carriers as ETCs, and establishes the requirements that an applicant must meet in order to be designated an ETC for the purpose of receiving federal universal service support pursuant to Section 214(e) of the Telecommunications Act. See, 47 C.F.R. § 214(e) (West) and S.C. Code Ann. Regs. 103-690 (2012).

As demonstrated in the Application, the Verified Testimony and the Stipulation, the Company satisfies all the relevant requirements for designation as an ETC specified in Sections 254 and 214 of the Telecommunications Act and Regulation 103-690. For

participation in the RDOF program the Company is a common carrier as defined by 47 U.S.C.A. § 153 (11), and will offer all the voice and broadband internet services supported by federal support mechanisms either using its own facilities or combination of its own facilities and resale of another carrier's services, and advertise the availability of its offerings and charges through media of general distribution. See, 47 C.F.R. § 153 (11) The Company has:

- certified that it will comply with the service requirements;
- demonstrated its ability and commitment to remain functional in emergency situations;
- demonstrated its commitment to satisfy applicable consumer protection and service quality standards, including annual certification of its compliance and reporting of consumer complaints in accordance with Regulations 103-690.C(a)(3) and 103-690.1.B(b)(4), S.C. Code Ann. Regs. 103-690.C(a)(3) & 103-690.1B(b)(4) (2012);
- demonstrated that the Company is financially and technically capable of providing the service;
- demonstrated that it will provide local usage plans comparable to the incumbent local exchange carriers already operating in the area; and
- committed to comply with applicable federal and state reporting requirements including, but not limited to, submitting reports regarding unfulfilled service requests under Regulation 103-690.1.B.(b)(3) and other annual reports required by Regulation 103-690.1. S.C. Code Ann. Regs.

103-690.1 (2012).

Additionally, in accordance with 47 C.F.R. § 54.101(d) and Regulation 103-690.1.E, the Company will offer voice and broadband internet access service to low-income customers in the RDOF designated service area. See, 47 C.F.R. § 54.101(d) (West) and S.C. Code Ann. Regs. 103-690.1 (2012).

Considering these factors and others, the Commission determines that it is in the public interest that the Commission grant the Company designation as an ETC for the purpose of providing voice and broadband internet access services.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Application, pre-filed testimony and Stipulation are accepted into the record without objection.

2. Since this matter is uncontested, ORS does not oppose the Application and waivers, and the Company otherwise meets the requirements for designation as described below, expedited review should be granted.

3. The Company meets all federal and state requirements for designation as an ETC in the proposed areas where it seeks designation, with the exception of those requirements for which waiver is requested and specifically granted, as included herein.

4. The Commission grants the Company's request for a waiver of the requirement to file a two-year plan describing proposed improvements or upgrades to its network. The Commission may waive a rule or regulation where circumstances indicate that a waiver is appropriate, upon a finding that such waiver is not contrary to the public interest. In lieu of filing the two-year plan provided for in Regulation 103-690.C.(a)(1)(B),

the Company shall make available to the Commission and ORS all reports it is required to file with the FCC in connection with the RDOF funding, as described above. The Company shall provide ORS with estimated timelines for each census block it proposes to serve. We conclude that providing the referenced reports to the Commission and to ORS provides a well-defined yardstick by which to measure the Company's progress towards the availability of voice and broadband service in the RDOF designated areas and is therefore an acceptable alternative to the two-year plan filing requirement.

5. The Commission also grants a waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation of the Company as an ETC in an area smaller than a wire center. As described above, the FCC has established a mechanism to ensure the deployment of voice and broadband to unserved areas based on a granular analysis at the census block and location level to target funding to such areas. We agree with the Company that if the Commission were to deny the ETC designation the Company requests at the census block level in order to obtain available federal funding to serve the funded areas, those areas likely would remain unserved or underserved. Therefore, it is in the public interest to grant a waiver of the portion of Regulation 103-690.C.(b) that prohibits designating an ETC service area smaller than an entire wire center in order to allow designation of the Company as an ETC at the census block level as described herein.

6. The Commission waives the equal access requirement of Regulation 103-690.C.(a)(S), which requires an applicant to acknowledge that the FCC "may require" it to offer equal access to long distance carriers. The Commission's ETC regulations generally track the corresponding federal ETC regulations, and equal access is no longer a requirement under the FCC's universal service rules, previously existing under 47

C.F.R. § 54.202(a)(5). Compare 47 C.F.R § 54.202(a)(5) (2020) with 47 C.F.R § 54.202(a)(5) (2007).

7. Granting this Application furthers the goals and purposes of Section 254 of the Telecommunications Act of 1996 in that access to the federal Universal Service Fund will ensure expanded access to voice and broadband service.

8. Granting this Application allows the Company to build out underserved and unserved areas, bringing the benefits of voice and high-speed broadband to citizens in those areas; therefore, granting this Application is in the public interest.

IV. IT IS THEREFORE ORDERED THAT:

1. The Commission adopts and approves the Stipulation executed between the Company and ORS attached hereto as Order Exhibit A.

2. The Commission grants expedited review to allow the Company to meet the federal requirement to be designated as an ETC in the RDOF designated areas identified in Order Exhibit B not later than June 7, 2021.

3. The Company's request for designation as an ETC is granted, as of the effective date of this Order and in the requested areas identified in Order Exhibit B, for the purpose of providing voice and broadband internet access services as requested in the Application on the terms provided in the Stipulation.

4. The Company shall abide by its commitment to provide service throughout its ETC-designated service area to all customers making a reasonable request for service, including low-income customers.

5. The Company shall make available to the Commission and ORS the reports it is required to file with the FCC in connection with the RDOF funding. The Company

shall provide ORS with estimated timelines for each census block it proposes to serve.

6. Except as provided in this Order, the Company shall meet the reporting and certification requirements for ETCs as outlined by the federal requirements and Regulation 103-690.1, and file the annual reporting information with the Commission no later than June 30th of each year. A copy of this report shall also be provided by the Company to the ORS.

7. The Commission grants the Company's request for a waiver of Regulation 103-690.C.(a)(l)(B) requiring it to file a two-year plan describing proposed improvements or upgrades to its network, and of Regulation 103-690.1.B.(b)(l) regarding annual updates to the two-year plan.

8. The Commission also grants a waiver of Regulation 103-690.C.(b) to the extent it would prohibit designation of the Company as an ETC in an area smaller than a wire center.

9. The Commission further grants waiver of the equal access requirement set out in Regulation 103-690.C.(a)(S).

10. The Company shall provide voice and broadband services in conformity with 47 U.S.C.A. § 214(e)(2), 47 C.F.R. § 54.101 et seq., and Regulation 103-690.1 (E)(a) and all requirements of the RDOF program.

11. The Commission may deny the Company's annual recertification as an ETC if the Commission finds that the Company has not used the high-cost federal support provided to the Company within the state only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

12. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



A handwritten signature in black ink, appearing to read "Tom Ervin", is written over a horizontal line.

Thomas J. "Tom" Ervin, Commissioner
Public Service Commission of
South Carolina

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2021- 22- C

March 12, 2021

IN RE: Application of Aiken Electric Cooperative,)
 Incorporated for Designation as an Eligible) **STIPULATION**
 Telecommunications Carrier Pursuant to)
 Section 214(e) of the Communications Act of)
 1934

This Stipulation is made by and among the South Carolina Office of Regulatory Staff ("ORS") and Aiken Electric Cooperative, Incorporated ("Company" or "Applicant") (collectively referred to as the "Parties" or sometimes individually as a "Party").

Whereas, Applicant is seeking designation as an Eligible Telecommunications Carrier ("ETC") in 1 eligible census block located in Aiken County in order to receive federal universal service support under Sections 214 and 254 of the Federal Telecommunications Act of 1996 and pursuant to the Federal Communications Commission's ("FCC") Rural Digital Opportunity Fund Phase I (904) Auction;

Whereas, the Application was filed pursuant to § 214(e) of the Communications Act of 1934, and the rules and regulations of the Public Service Commission of South Carolina ("Commission") and the FCC;

Whereas, ORS is a statutory party to this action. See S.C. Code Ann. § 58-4-10(B);

Whereas, no other comments or petitions to intervene were received in response to the notice of filing;



Whereas, in support of its Application and request for expedited review of this matter, the Applicant has filed an Affidavit attesting to the truth and accuracy of the Application and testimony;

Whereas, the Federal Communications Commission ("FCC") released FCC 11-161 Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board ("USF/ICC Transformation Order") in an effort to comprehensively reform and modernize the high cost program within the universal service fund and the intercarrier compensation system to reposition support for networks capable of providing both voice and broadband services and created the Rural Digital Opportunity Fund ("RDOF");

Whereas, the Applicant identified services areas in price cap carriers' service areas in incumbent markets which were unserved, and which could be served by the Applicant by constructing new facilities funded by the federal RDOF plan;

Whereas, the Applicant participated in RDOF Auction, and the FCC awarded support to Applicant through the competitive bidding process;

Whereas, Applicant was among the provisional winning bidder and will receive \$ 45,660 over a ten-year period to build a network capable of providing gigabit broadband service upon completion of certain post-auction requirements;

Whereas, one of these requirements is for Applicant to be designated as an ETC in each state that it received RDOF in the funded areas by June 7, 2021;

Whereas, 47 C.F.R. § 54.101(a)(1) defines voice telephony services eligible for universal service support as services that provide voice grade access to the public switched network

or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E. of this part;

Whereas, Section 54.101(a)(2) defines broadband Internet access services eligible for universal service support as services that provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service;

Whereas, the FCC does not require the Applicant to submit a five-year plan for proposed network improvements and upgrades and no longer requires ETCs provide equal access;

Whereas the FCC has adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certifications of compliance with benchmark milestones, provided a "more defined yardstick by which to measure their progress towards the universal availability of voice and broadband service" in winning bidders designated service areas;

Whereas, Applicant is required to maintain a functional network in emergency situations;

Whereas, Applicant is required to commit to objective measures to protect consumers;

Whereas, Applicant is required to offer local usage plans comparable to the one offered by the incumbent in the service areas for which it seeks designation, in compliance with Commission Regulation 103-690.C.(a)(4);

Whereas, the FCC has undertaken a granular analysis, at the census block and location level, which are smaller areas than the wire center level, to target funding to unserved and

underserved areas and the Application necessitates a waiver of Commission Regulation 103-690.C.(b) to the extent it would prohibit designation;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1. As an ETC, Applicant agrees to provide voice and broadband service pursuant Section 214(e)(1) of the Communications Act of 1934, as amended and Section 54.201(d) of the rules of the FCC require ETCs to, throughout their service areas for which designation is received, (1) offer the services supported by federal universal service support mechanisms, (2) either using its own facilities or a combination of its own facilities and resale of another carrier's services, and to (3) advertise the availability of such services and the charges using media of general distribution.
2. As an ETC, Applicant agrees that it must offer the services that are supported by universal support mechanisms, which are voice telephony services and broadband service as defined in Section 54.101 of the FCC's Rules, either through its own facilities or a combination of its own facilities and resale of another carrier's facilities in areas where it seeks ETC designation.
3. As an ETC, Applicant agrees to provide voice grade access to its customers through interconnection of Applicant facilities and the public switched telephone network.
4. As an ETC, Applicant agrees that it will offer Lifeline discounts to qualifying customers and comply with federal Lifeline requirements in fulfillment of the requirement that ETCs offer Lifeline discounts to qualifying customers and to offer toll limitation service at no charge to qualifying customers in the funded areas, unless the



Lifeline service does not distinguish between toll and non-toll calls in the pricing of the service.

5. As an ETC, Applicant agrees to provide access to emergency services for its customers in remote and currently unserved and underserved portions of the 1 census block for which it seeks ETC designation.
6. As an ETC, Applicant agrees to identify for ORS the census block for which it was awarded RDOF funding and the FCC cost estimate for that block used in the RDOF auction within seven days of ETC designation.
7. As an ETC, Applicant agrees to provide estimated timelines for each census block it proposes to serve.
8. As an ETC, Applicant agrees to offer a Lifeline Broadband option for each census block that it has been awarded RDOF upon completion of construction to that census block.
9. As an ETC, Applicant will advertise these offerings in a manner that is designed to fully inform potential customers of the supported services available to them, to disclose all associated rates, and to ensure that qualifying low-income individuals are informed about the availability and cost of Lifeline programs.
10. As an ETC, Applicant, pursuant to FCC regulations, must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) demonstrate its ability to remain functional in emergency situations; (3) demonstrate that it will satisfy consumer protection and service quality standards.
11. As an ETC, the Applicant agrees to report to the FCC and the Commission on a quarterly or annual basis the number of unfulfilled requests for service, as required.

12. As an ETC, Applicant certifies that it will comply with the service requirements applicable to the supported voice and broadband services that it will be offering in the Funded Areas, including the requirements for the RDOF auction program.
13. As an ETC, Applicant commits to making available to the Commission and ORS all reports it is required to file with the FCC in connection with RDOF Phase I funding for the designated areas.
14. As an ETC, Applicant commits that its voice and broadband network is designed to remain functional in emergency situations without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations and complies with the FCC's backup power requirements.
15. As an ETC, Applicant certifies that it is complying with applicable service quality standards and consumer protection rules, including complying with Lifeline service standards pursuant to 47 C.F.R. § 54.408 including minimum broadband speed requirements, data usage allowance, and accessibility to WIFI devices.
16. As an ETC, Applicant agrees to offer a voice local calling plan comparable to the calling plan offered by the incumbent local exchange carrier in the designated areas.
17. As an ETC, Applicant acknowledges that the FCC may require Applicant to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.
18. As an ETC, Applicant agrees that it is a common carrier and has the obligation of a common carrier for the provision of voice and broadband service within South Carolina.



19. Subject to the provisions set forth herein and compliance with regulatory assessments such as the Dual Party Relay Fund, the South Carolina Universal Service Fund, and gross receipts, where applicable, ORS does not oppose the Application of Aiken Electric Cooperative, Incorporated for designation as an eligible telecommunications carrier.
20. As an ETC, Applicant will not "cream-skim," that is, target low-cost portions of a rural incumbent LEC's service area in which uneconomically high levels of support are available.
21. ORS is charged by law with the duty to represent the public interest of South Carolina. Pursuant to S.C. Code § 58-4-10(B) (Supp. 2018) 'public interest' means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.
22. ORS believes the Stipulation reached among the Parties serves the public interest as defined above. The Parties agree that this Stipulation is reasonable, is in the public interest, and is in accordance with law and regulatory policy.
23. ORS agrees to support expedited review for the Applicant as it has agreed to the terms and conditions of ETC designation. ORS also supports the waiver of R. 103-690(C)(b). This Stipulation contains the complete agreement between the Parties regarding the Application. There are no other terms or conditions to which the Parties have agreed.
24. The Parties agree to advocate that the Commission accept and approve this Stipulation in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The

Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Stipulation be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Stipulation and the terms and conditions contained herein.

25. The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either Party is made aware of information that conflicts with, nullifies, or is otherwise materially different than that information upon which this Stipulation is based, either Party may withdraw from the Stipulation with written notice to the other Party.
26. The Parties agree that signing this Stipulation will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Stipulation in its entirety, then any Party desiring to do so may withdraw from the Stipulation in its entirety without penalty or obligation.
27. This Stipulation shall be interpreted according to South Carolina law.
28. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Stipulation by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original

signature pages combined with the body of the document constituting an original and provable copy of this Stipulation. The Parties agree that in the event any Party should fail to indicate its consent to this Stipulation and the terms contained herein, then this Stipulation shall be null and void and will not be binding on any Party.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

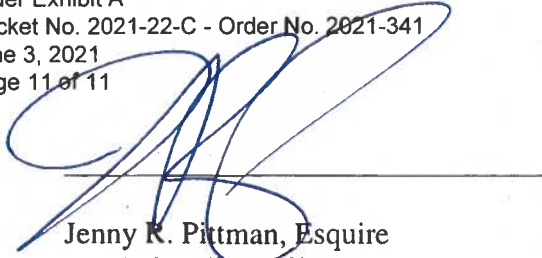




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RDOF Census Block Group Won By AEC

EXHIBIT B

